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Do Puerto Rico and the Philippine Islands become integral parts of the United States under the Paris Treaty?

SPEECH

OF

HON. A. J. HOPKINS,

OF ILLINOIS,

IN THE

HOUSE OF REPRESENTATIVES,

TUESDAY, FEBRUARY 20, 1900.

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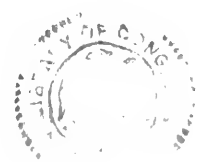

SPEECH

OF

HON. A. J. HOPKINS.

The House being in Committee of the Whole House on the state of the Union, and having under consideration the bill (H. R. 8245) to regulate the trade of Puerto Rico, and for other purposes—

Mr. HOPKINS said:

Mr. CHAIRMAN: The bill under consideration provides—

That on and after the passage of this act the same tariffs, customs, and duties shall be levied, collected, and paid upon all articles imported into Puerto Rico from ports other than those of the United States which are required by law to be collected upon articles imported into the United States from foreign countries.

It does not provide for free trade between the islands and the United States, but fixes the rate of duty that shall be paid on all imports from Puerto Rico into the United States at 25 per cent of the duties charged on like articles from other foreign ports, and provides also that all articles imported into Puerto Rico from the United States shall only pay 25 per cent of the rate of duty imposed there upon like articles from other foreign countries, with this proviso, that on all articles imported from Puerto Rico into the United States where internal-revenue duty is imposed in this country that the custom duty shall be 25 per cent of the duty imposed on like articles from foreign countries plus the revenue tax levied and collected on the articles produced or manufactured in this country. It will thus be seen that under this bill the question is presented as to whether Puerto Rico and the Philippine Islands, under the treaty of peace entered into between this Government and Spain, become integral parts of the United States or whether they can be treated as territory, and separate and distinct custom laws and internal-revenue laws imposed there from what are levied, collected, and paid in the United States. The issue presented in this bill, as thus briefly stated, is of paramount importance to the people of this country.

The treaty of peace negotiated between the United States and Spain was a great triumph of American diplomacy and American statesmanship. It fixed the terms of settlement at the conclusion of a war the most brilliant of any in the history of our country. There is a destiny that shapes the affairs of nations as well as of men. The American Republic in all of its splendid career has had the favoring countenance of an allwise and just God. Never in its history, however, has the interposition of Divine Providence been more manifest than in our relations with Spain in the late war.

I have neither the time nor the inclination to review in any detail the circumstances which led to the declaration of war against Spain. This is all familiar history, known to every member on the floor, and a subject with which the great mass of our fellow

countrymen are entirely familiar. The war was declared by our Government in obedience to an almost universal demand of the American people. Party lines were obliterated, sectional differences forgotten, factional disturbances were laid aside, and the people, almost with the voice of one man, demanded of the Government of the United States not only a declaration of war but the expulsion of Spanish authority from the Western Hemisphere.

In the accomplishment of this great purpose the fortunes of war took Admiral Dewey, in the early hours of the morning on the 1st day of May, 1898, into the harbor of Manila. The brilliant naval engagement which followed eclipsed in splendor any sea fight of ancient or modern times. Lord Nelson, the great British admiral, in all of his wonderful career on the sea, never achieved so brilliant a victory as the one gained by Dewey over the Spanish fleet in Manila Harbor. That great naval battle not only placed Dewey's name among the immortals, but it fixed duties and responsibilities upon the Government of the United States so momentous, so far-reaching, that the wisest and ablest in our midst are unable to agree as to their proper solution. Four problems faced our commissioners when they assembled in Paris to negotiate the treaty of peace with the Spanish commissioners as to what disposition should be made of the Philippine Islands:

First, our Army and Navy could be withdrawn from the islands and Spain again be given the power and authority she was exercising at the time Admiral Dewey's fleet first sailed into Philippine waters. Second, the islands could be given over to the inhabitants themselves. Third, the islands could be taken and divided among European nations. Fourth, the islands could be held by the United States under the terms and stipulations expressed in the treaty of peace. The reasons that were urged by the people of this country for the expulsion of the Spaniards from Cuba were equally potent against our commissioners allowing Spain to reassert her sovereignty over the Philippine Islands. Our duty to humanity, to our own citizens, and the people of those islands demanded that the strong arm of this Government should be maintained there to provide against anarchy, bloodshed, and riot that would inevitably follow the turning of them over to the people themselves under present conditions. No self-respecting American, no lover of his country, ambitious for its future on land and sea, could for a moment think of that great archipelago, with its future possibilities, being turned over to the grasping ambition and avarice of the European nations, who are to-day attempting to absorb the greater part of the Asiatic and oriental trade from America. There was but one thing left for the American commissioners to do, and that was to provide for the cession of those islands to the United States.

The consensus of opinion in this country to-day, Mr. Chairman, approves the wise action of these able and distinguished commissioners. The people of this country unite in their approval of the President's course in all our relations with Spain; and history, I am sure, will vindicate also the wisdom of his course. When war was declared no one dreamed that the far-off Orient would witness the first scenes of hostilities between the two nations. Our thoughts, our expectations, and our hopes were all centered in the fleet that was to blockade Cuban ports, and in the army that was to invade Cuban soil.

The god of war ordained it otherwise, and placed under our naval and military control the islands which are to-day inhabited

by millions of people representing various stages of political development, from sayagery to civilization. I approve with my whole heart the cession of these islands to the United States, and I do not join with those who indulge in dark forebodings of the future because of the problems which have arisen on account of their acquisition.

I believe that the American Republic is destined to grow in all the elements that make a great nation more rapidly in the future than in the past and that its influence will be marked and potent among all the nations of the earth. I believe that these great results can be brought about without endangering our domestic institutions or without impairing those great principles of liberty and free government that are the heritage of every American citizen. I thank God that I was born an optimist instead of a pessimist; that I can see something good in men rather than evil; that political organizations are formed for the betterment of the people of our country rather than for corrupt purposes and the spoils of office, and that in our Government we can go on increasing our trade, our commerce, our population and wealth, and in all the elements that go to make up a great sovereignty, without impairing any of those conditions so sacred to the fathers of the Republic and so important a factor in the perpetuation of republican institutions.

I believe that the Constitution of the United States is broad enough and elastic enough to enable us to control the inhabitants of those islands and give them a larger liberty and a higher civilization than they have heretofore enjoyed without impairing in the least the integrity of our domestic institutions or entailing upon our people any additional taxation. I recognize the fact that it would be inopportune to engage in a long and elaborate argument to show what the powers are of our Government and the manner in which they should or can be exercised. I take it, Mr. Chairman, that these questions have been sufficiently discussed to satisfy every fair-minded man that the United States Government has the constitutional power to acquire these islands. If there is any doubting Thomas among us at this late day I would call his attention to the remarks of Chief Justice Marshall in the case of American Insurance Company *vs.* Canter (1 Peters, 542), in which case, speaking for the court, he said:

> The Constitution confers absolutely on the Government of the Union the powers of making war and of making treaties: consequently, that Government possesses the powers of acquiring territory, either by conquest or treaty. * * * If it be ceded by the treaty, the acquisition is confirmed, and the ceded territory becomes a part of the nation to which it is annexed, either on the terms stipulated in the treaty of cession or on such as its new master may impose.

There are many other decisions of the Supreme Court of the United States which confirm the doctrine here announced. This is practically only asserting the sovereign power of the United States. When England recognized our independence, and we took a place among the sovereign nations of the earth, we took it with all the power and authority that can be exercised by any other independent sovereignty in all this world. The power of acquiring and of disposing of territory is an incident of sovereignty itself.

It could be exercised by the United States Government if there were nothing in the Constitution relating to the subject, but, as this great and eminent Chief Justice said, under the Constitution

which unites the separate States into one grand Republic the article which provides for the declaration of war and the making of treaties carries with it the power to either acquire or dispose of territory at the sovereign will of the United States Government. Therefore the President, in authorizing his commissioners to enter into the articles of the treaty of peace between this Government and Spain, to acquire by cession from the Spanish Government Puerto Rico and the Philippine Islands, was simply exercising the sovereign rights inherent in our Government.

No man conversant with international law and familiar with the Constitution of the United States will contend for a moment that the acquisition of those islands was unconstitutional or beyond the power of the Government. As to what our relations to those islands shall be under the treaty of peace is, however, quite a different question. I have been greatly interested in the discussion which has been carried on in this House and in the Senate on this subject. Men whom I believe are honest in their convictions differ widely; some contend that by the very acquisition of those islands they become an integral part of the United States and that the inhabitants, varying as they do from savagery to semicivilization and perhaps to civilization, are guaranteed under our Constitution all the rights, privileges, and immunities that form the sacred inheritance of every American citizen. I have given very careful and anxious thought to that subject, and, speaking only for myself, I am entirely clear as to the status that will be held by the people of those islands and the relations that the islands themselves will bear to the Government of the United States under the Constitution.

You will note, Mr. Chairman, that in the treaty of peace itself our commissioners, with a wise forethought and a display of statesmanship that is creditable indeed, have provided in the ninth article of that treaty that "The civil rights and political status of the native inhabitants of the territory hereby ceded to the United States shall be determined by the Congress," thus leaving the whole question open to be determined by the legislation that shall be enacted by this or future Congresses. I have very pronounced convictions on this subject. I believe that territory acquired by the United States as Puerto Rico and the Philippine Islands have been acquired, under this treaty of peace between our Government and Spain, becomes the property of the United States Government and not a part of it, and that under the Constitution Congress can make such disposition of the islands as the members of the House and Senators may deem for the best interest of the people of this country and the inhabitants of the islands.

I believe, further, that under the reservation in the treaty by which the civil rights and the political status of the native inhabitants are to be determined by Congress we can make such legislation regarding them as we shall see fit, consistent with the principles of our free Republic. I am aware, sir, that in announcing this position I take issue with the great mass of the gentlemen who are opposed to the present Administration and who are seeking to embarrass the Government. But, sir, in assuming the power of the Government both over these islands and the people as well, I am announcing no new doctrine of constitutional law and am asserting no new principle of legislation. These principles which I maintain have been asserted by abler men and maintained by more

cogent reasons than I can express. Chancellor Kent, in speaking on this very subject, said:

It would seem from these various Congressional regulations of the Territories belonging to the United States (Territorial regulation acts) that Congress has supreme power in the government of them, depending on the exercise of their sound discretion. That discretion has hitherto been exercised in wisdom and good faith and with an anxious regard for the security of the rights and privileges of the inhabitants as defined and declared in the ordinance of July, 1787, and in the Constitution of the United States. "All admit," said Chief Justice Marshall, "the constitutionality of a Territorial government." But neither the District of Columbia nor a Territory is a State within the meaning of the Constitution or entitled to claim the privileges secured to the members of the Union. This has been so adjudged by the Supreme Court. Nor will a writ of error or appeal lie from a Territorial court to the Supreme Court unless there be a special statute provision for that purpose. * * * If, therefore, the Government of the United States should carry into execution the project of colonizing the great valley of the Columbia or Oregon River, to the west of the Rocky Mountains, it would afford a subject of grave consideration what would be the future civil and political destiny of that country. It would be a long time before it would be populous enough to be created into one or more independent States; and in the meantime, upon the doctrine taught by the acts of Congress, and even by the judicial decisions of the Supreme Court, the colonists would be in a state of the most complete subordination and as dependent upon the will of Congress as the people of this country would have been upon the King and Parliament of Great Britain if they could have sustained their claim to bind us in all cases whatsoever.—*Commentaries*, Vol. I, 385.

Judge Story, one of the ablest judges who ever sat upon the bench of the Supreme Court of the United States, and whose work on the Constitution is a recognized authority in this country and in England, said:

The power of Congress over the public territory is clearly exclusive and universal; and their legislation is subject to no control, but is absolute and unlimited, unless so far as it is affected by stipulations in the cessions, or by the ordinance of 1787, under which any part of it has been settled.—*Commentaries*, section 1328.

I think, sir, that a careful analysis of the decisions of the Supreme Court of the United States will support my contention that the ceded islands become the property of, and not an integral part of, the United States. In support of that position I desire to briefly call the attention of members of the House to what Mr. Justice Bradley said in the case of Mormon Church *vs.* United States (136 U. S., page 42):

The power of Congress over the Territories of the United States is general and plenary, arising from and incidental to the right to acquire the territory itself and from the power given by the Constitution to make all needful rules and regulations respecting the territory or other property of the United States. It would be absurd to hold that the United States has power to acquire territory and no power to govern it when acquired. The power to acquire territory * * * is derived from the treaty-making power and the power to declare and carry on war. The incidents of these powers are those of national sovereignty, and belong to all independent governments. The power to make acquisitions of territory, by treaty and by cession, is an incident of national sovereignty. The Territory of Louisiana, when acquired from France, and the Territories west of the Rocky Mountains, when acquired from Mexico, became the absolute property and domain of the United States, subject to such conditions as the Government, in its diplomatic negotiations, has seen fit to accept relating to the rights of the people then inhabiting those Territories. Having rightfully acquired said Territories, the United States Government was the only one which could impose laws upon them, and its sovereignty over them was complete. No State of the Union had any such right of sovereignty over them; no other country or government had any such right. These propositions are so elementary and so necessarily follow from the condition of things arising upon the acquisition of new territory that they need no argument to support them.

Long prior to the date of this decision Mr. Justice Nelson, speaking for the Supreme Court of the United States in the case of Brenner *vs.* Porter (9 How.. 242), said:

They (speaking of Territories) are not organized under the Constitution

nor subject to its complex distribution of the powers of government, as the organic law, but are the creations, exclusively, of the legislative department and subject to its supervision and control.

As late as February, 1898, this question was before the circuit court of appeals of the United States for the ninth district, and the doctrine here announced by the Supreme Court in the decisions to which I have referred was reaffirmed by that court. Mr. Justice Morrow, who delivered the opinion of the court, evidently reexamined the whole question and carefully considered all the authorities cited on the subject by the lawyers on both sides of the case and came to the conclusion which I have maintained here to-day, and which has been so tersely and beautifully expressed by Mr. Justice Bradley in the decision to which I have adverted. Mr. Justice Morrow, in speaking for the court, used the following language:

The answer to these and other like objections urged in the brief of counsel for defendant is found in the now well-established doctrine that the Territories of the United States are entirely subject to the legislative authority of Congress. They are not organized under the Constitution, nor subject to its complex distribution of the powers of government as the organic law, but are the creation exclusively of the legislative department and subject to its supervision and control. (Benner *vs.* Porter, 9 How., 235, 242.) The United States, having rightfully acquired the territory, and being the only Government that can impose laws upon them, has the entire dominion and sovereignty, national and municipal, Federal and State. (Insurance Co. *vs.* Canter, 1 Pet., 511, 542; Cross *vs.* Harrison, 16 How., 164; National Bank *vs.* Yankton Co., 101 U. S., 129, 133; Murphy *vs.* Ramsey, 114 U. S., 15, 44, 5 Sup. Ct., 747; Late Corporation of Church of Jesus Christ of Latter-Day Saints *vs.* U. S., 181, 11 Sup. Ct., 949; Shively *vs.* Bowlby, 152 U. S., 1, 48, 14, Sup. Ct., 548.) * * * It may legislate in accordance with the special needs of each locality, and vary its regulations to meet the conditions and circumstances of the people. Whether the subject elsewhere would be a matter of local police regulation or within State control under some other power it is immaterial to consider. In a Territory all the functions of government are within the legislative jurisdiction of Congress, and may be exercised through a local government or directly by such legislation as we have now under consideration. (Endleman *vs.* United States, 86 Fed. Rep., 456.)

This, I think, is the latest expression on this subject by the courts. Gentlemen will see that it is in line with the spirit of the law as originally announced by Mr. Chief Justice Marshall and later by Mr. Justice Bradley. The members who are interested in the study of this question and who take any pleasure in examining the authorities will find that not only is the opinion rendered by Mr. Justice Morrow correct, but will also find that Mr. Justice Bradley, in the opinion on this subject rendered by him, collects and reviews all the intervening decisions from 1 Peters to the one which was rendered by him and which is published in 136 U. S. Reporter; so that I hazard nothing in saying that the Supreme Court of the United States has held that the acquisition of territory where it is held as territory is the property of the United States. The Supreme Court in 18 Wallace, page 320, said:

During the term of their pupilage as Territories they are mere dependencies of the United States. All political authority exercised therein is derived from the General Government.

Indeed, Mr. Chairman, my examination of this subject has caused me to express feelings of surprise that men question the constitutional status of these people under the treaty of peace, or question the status of the islands themselves, so far as the power and authority of the Congress of the United States over them is concerned. They may rely, however, upon the decisions of the Supreme Court of the United States relating to the right of trial

by jury in the Territories, to citizenship, and the apportionment of taxes, etc.

Mr. COCHRAN of Missouri. Will the gentleman allow me to ask him a question?

Mr. HOPKINS. I will yield to the gentleman.

Mr. COCHRAN of Missouri. I want to inquire of the gentleman if he believes that had that part of the treaty for the purchase of Louisiana with France been omitted, could Congress have passed a law interfering with the religious liberty of the people of the Louisiana purchase?

Mr. HOPKINS. I want to say to the gentleman that if there had been no provision of that kind, the power of Congress would have been as unlimited as England in treating her colonies before the war of the Revolution, in the language of Judge Kent, and one as great as she exercises over her other provinces at the present time.

Mr. COCHRAN of Missouri. One further question.

Mr. HOPKINS. I can not yield further.

Mr. COCHRAN of Missouri. It will be very brief.

Mr. HOPKINS. Now, Mr. Chairman, when I was interrupted by the gentleman from Missouri I was attempting to show that under this constitutional provision the treaty of cession became the supreme law of the land, and enabled a person living within the limits of the Territory to invoke the powers of the Constitution in his behalf precisely as he would if he had lived within the limits of a State.

When we come to understand this, we can readily see that the Supreme Court of the United States in passing upon the question as to the right of trial by jury would use language that may be found in those decisions; that when they came to pass upon any of the questions relating to police powers they would use such language as they do without ever assuming the grave proposition that has been announced by the gentlemen on the other side of the Chamber in this debate.

I am well aware that expressions can be found in a number of cases decided by that great tribunal which give color to the position assumed by gentlemen on the other side of the Chamber, who contend that the Constitution ex proprio vigore extends to the Philippine Islands and Puerto Rico. I have carefully studied each of these decisions, and I think when they are properly considered they are in harmony with the position I assume and in harmony with the decisions of the courts which I have cited above in support of the doctrine that these newly acquired possessions are the property of the United States and subject to such legislation as Congress may see fit to enact respecting them. To properly understand those decisions it may be necessary to call the attention of the members of the House to the different treaties negotiated by this country with foreign countries in the acquisition of territory.

The first territory we acquired by treaty was during the year 1803, and is known as the Louisiana purchase. Article III of the treaty negotiated between this country and France reads as follows:

> The inhabitants of the ceded territory shall be incorporated into the Union of the United States and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of the citizens of the United States; and in the meantime they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess.

When it is remembered that by Article VI of the Constitution "all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land," it becomes apparent at once that when the treaty from which I have just quoted was approved by the President and the Senate it became the supreme law of the United States and extended to the citizens living within the limits of the Louisiana purchase the rights and privileges of citizens of the States. It is also apparent that this vast territory was acquired by the Government of the United States for the purpose of being incorporated into the Union and giving the inhabitants thereof all the rights, privileges, and immunities of the people of the thirteen original States.

Florida was ceded to the United States by Spain in 1819 under a treaty containing a similar provision to the one just quoted relating to the Louisiana territory. And the treaty by which New Mexico, California, Utah, and the other territory acquired from Mexico was ceded by that country to the United States contained a provision similar to that contained in the treaties concerning Florida and the province of Louisiana. You thus see that by the treaty, which under the Constitution becomes the supreme law of the land, certain rights under the Federal Constitution were conferred upon the inhabitants of the ceded territory. In none of these cases has the court said, independent of any treaty arrangement or act of Congress, that the Constitution ex proprio vigore extends to newly acquired possessions. When we acquired the Alaskan territory, a somewhat different agreement was entered into with Russia with reference to the territory itself and to the people living therein. That treaty, among other things, provided as follows:

> But if they should prefer to remain in the ceded territory, they, with the exception of the uncivilized tribes, shall be admitted to the enjoyment of all rights, advantages, and immunities of citizens of the United States, and shall be protected in the free enjoyment of their liberty, property, and religion. The uncivilized tribes shall be subject to such regulations as the United States may from time to time adopt in regard to the aboriginal tribes of that country.

From this it is apparent that, aside from the acquisition of the Hawaiian Islands, all of the territory which we acquired prior to the cession of the Philippine Islands and Puerto Rico was under the treaty stipulations which extended to the inhabitants certain of the rights, under the Constitution, of American citizens.

Loughborough *vs.* Blake (5 Wheaton, 317) is the leading case relied upon by those who argue that the Constitution ex proprio vigore extends to all of our newly acquired possessions. That case was decided in 1820. The opinion was delivered by Chief Justice Marshall. It arose out of substantially the following facts: January 9, 1815, Congress passed an act laying an annual direct tax of $6,000,000 upon the several States that formed the United States Republic, naming the States, eighteen in all. The amount was apportioned among them as provided by the Constitution. February, 27, 1815, Congress passed another act which in effect extended the first act to the District of Columbia. A resident of the District of Columbia resisted payment on the grounnd that the act extending the original act to the District of Columbia was unconstitutional. His property was seized and he brought trespass against the officer making the seizure.

The judgment of the court can be sustained fully on the grant of full legislative power found in Article I, section 8, subsection

17, of the Constitution. In delivering the opinion of the court, however, Chief Justice Marshall used language which implies that the "United States" means the States and Territories. This part of the opinion is conceded by all lawyers to be dictum, and that it is so regarded by the Supreme Court of the United States is apparent from the language of Mr. Justice Gray in the case of Gibbons *vs.* The District of Columbia (116 U. S. Rep., 407). In speaking of the case of Loughborough *vs.* Blake he said:

> The point there decided was that an act of Congress laying a direct tax throughout the United States in proportion to the census directed to be taken by the Constitution might comprehend the District of Columbia, and the power of Congress, legislating as a local legislature for the District, to levy taxes for District purposes only, in like manner as the State legislature of a State may tax the people of a State for State purposes, was expressly admitted and has never since been doubted.

Chief Justice Marshall, in his opinion, did not make the distinction which clearly exists that the term "United States" has a dual meaning. One, international, which means the empire of the United States, including the States that exist under the Constitution and all the territory as well. This term is conventional. It is a term that is used the same as we speak of the German Empire, and has no relation to the Constitution itself, which unites the forty-five States into one Federal Republic. In its constitutional meaning the term "United States" relates entirely to the States forming the Federal Republic, and it is in that sense in which it is used in the different provisions in the Constitution itself. As I have already shown, it was unnecessary for the Chief Justice to have used the language he did in upholding the constitutionality of the act in question, and it is apparent also that he did not give the significance to that language which has been given to it by our Democratic friends, from the fact that he was the judge who wrote the opinion in the Canter case, reported in 1 Peters. The Canter case, while it does not in express terms overrule the dictum of Chief Justice Marshall in Loughborough *vs.* Blake, uses language which is entirely inconsistent with the idea that a Territory, as such, is comprehended within the limits of the Constitution of the United States.

Indeed, Chief Justice Marshall himself, in the case of Hepburn *vs.* Ellzey (2 Cranch, 445), fully determined that a Territory is not a State and not comprehended within the limits of the Constitution. In that case a resident of the District of Columbia brought suit in the United States court for the district of Virginia against a citizen of Virginia. The defendant contended that as a citizen of the District of Columbia he had no authority under the Constitution to bring such a suit. In determining that question Chief Justice Marshall said:

> On the part of the plaintiffs it has been urged that Columbia is a distinct political society and is therefore a State according to the definitions of writers on general law. That is true. But as the act of Congress obviously uses the word "State" in reference to that term as used in the Constitution, it becomes necessary to inquire whether Columbia is a State in the sense of that instrument. The result of that examination is a conviction that the members of the American Confederacy only are the States contemplated in the Constitution.

Again, in the case of New Orleans *vs.* Winter (1 Wheaton, 92), Chief Justice Marshall uses this language:

> It has been attempted to distinguish a Territory from the District of Columbia; but the court is of opinion that this distinction can not be maintained. They may differ in many respects, but neither of them is a State in the sense in which that term is used in the Constitution.

Scott *vs.* Sanford (19 Howard) is another case which is much relied upon by those who hold that our newly acquired possessions must be controlled, if at all, under the provisions of the Constitution. A mere statement of the issue involved in that case, as it seems to me, will determine the fact that it can not be urged as an authority to guide us in the determination of our action in legislating for Puerto Rico and the Philippine Islands. Scott was a slave, and his master took him from Missouri, where he was then a resident, into the State of Illinois and resided there for two years, and then into the Territory of Minnesota and resided there for two years. He then went back into the State of Missouri with his slave, and after he had become again domiciled in the State of Missouri Scott sued in the State courts for his freedom.

The supreme court of Missouri held that it did not possess jurisdiction beyond the territorial limits of the State and that it could not invoke the laws of Illinois or of the Territory of Minnesota to establish his freedom. The case was then taken into the Federal courts, and the only issue presented there and the only issue decided by the Supreme Court of the United States was as to whether that court had jurisdiction of the case. The decision of the court was that it did not possess jurisdiction. Whatever was said outside of that one issue was the dictum of the judge and not the decision of the court. We all know under what political excitement the opinions of the Chief Justice and his associates were delivered. They were simply the expression of political opinions and are not entitled to any weight as judicial expressions. That I am correct in this is apparent from the fact that it has never been relied upon by the courts and rarely has it been referred to in judicial opinions.

American Publishing Company *vs.* Fisher (166 U. S., 464), the Slaughter House Cases, Springville *vs.* Thomas (166 U. S., 707), Thompson *vs.* Utah (170 U. S., 343), and many other cases that I might speak of have been referred to in this debate as supporting the doctrine that our newly acquired possessions have become an integral part of the United States and that the inhabitants thereon are entitled to the protection guaranteed to citizens under our Constitution. Those cases when properly analyzed do not support that contention. That issue was not before the court in any of these cases. The language that has been relied upon is simply the dictum of the justice who prepared the decision for the court. Every person familiar with the decisions of our courts can readily understand that even the judge himself preparing the opinion would not wish to be bound to the exact and literal interpretation of every expression used in the way of illustrating the issue that is determined in the opinion.

All of these cases arose under such different conditions from those that now confront us that it is preposterous to hold that all or any of them are authorities to guide us in legislating for Puerto Rico or the Philippine Islands. I venture the assertion that none of these decisions would have any weight with the Supreme Court, or at the most very little weight, when called upon to decide the constitutionality of the bill which we are now considering. We are confronted in this legislation with the acquisition of territory under different terms from any previous acquisition in the history of the Republic. The location of the islands, climatic conditions, the inhabitants themselves and their known incapacity at the present time for self-government will all have a

powerful influence with the court in determining the constitutionality of our action.

It is a maxim not to be disregarded that general expressions in every opinion are to be taken in connection with the case in which those expressions are used. If they go beyond the case they must be respected, but ought not to control the judgment in a subsequent suit when the very point is presented for decision. The reason of this maxim is obvious. The question actually before the court is investigated with care and considered in its fullest extent. Other principles which may serve to illustrate it are considered in their relation to the case decided, but their possible bearing on all other cases is seldom completely investigated.

This is the language of Chief Justice Marshall in the case of Cohens *vs.* Virginia (6 Wheaton, 264).

In re Ross (140 U. S. Rep., 453) the Supreme Court of the United States upheld a consular court established by Congress in Japan, consisting of a consul and four associates. A person charged with murder on an American vessel in Japanese waters was tried before this consular court without a jury and without any of the safeguards provided by the Constitution. He was found guilty and sentenced to be executed. The sentence, however, was commuted by the President to life imprisonment, and he was sent to the penitentiary at Albany, N. Y., to serve out his life sentence. While he was serving out his life sentence he sued out a writ of habeas corpus and raised the question as to the constitutionality of the court which had tried him, claiming that under the Constitution of the United States he had a right to trial by jury. The court held him to have been properly convicted, and upheld the act of Congress creating the court. This case is in harmony with those which I have already cited in support of the doctrine that Congress is supreme in the territories we have just acquired, and that the civil rights and the political status of the people of those islands can be fixed by Congress independent of any of the provisions or limitations in the Constitution.

In the first case to which I have referred in my remarks here to-day—the Canter case, reported in 1 Peters—Daniel Webster was of counsel in the case. It was a case that arose out of the sale of cotton by order of a Territorial court in the Territory of Florida. Mr. Webster, in his argument, went into a full exposition of the relations of the Territories to the Government of the United States. This, mark you, was in 1828, more than seventy years ago, and only a few years, comparatively speaking, after our Government had been organized under the Constitution. None of the decisions to which I have here referred had been rendered, but Mr. Webster, with that marvelous analytical ability which he possessed, with that knowledge of the Constitution and its proper construction which he always displayed when discussing these questions, contended that the Constitution did not extend over acquired territory; that territory itself was the property of the United States, and that Congress was the supreme power in legislating for such territory.

The treaty of cession by which the United States became possessed of the Territory of Florida was so worded that the Supreme Court was not required to specifically and in exact language determine the proposition as Mr. Webster presented it to the court, but the spirit of that decision was along the line of the argument presented by Mr. Webster. Later decisions, as I have clearly shown here to-day, are all in harmony with the position that that great constitutional lawyer maintained. How comes it, then, that in the closing days of the nineteenth century, and after more than

a hundred years of constitutional government, we find men apparently learned in the law who take the opposite position, and who insist that the acquisition of the Philippine Islands under the treaty of peace with Spain makes them an integral part of the United States and gives to the inhabitants there all of the rights, privileges, and immunities of American citizens?

I think I can explain it, Mr. Chairman. These men are resurrecting a doctrine that ought to have gone down forever in the smoke and battle of the civil war. This principle, which has been resurrected for the purpose of creating trouble for this Administration and the Republican party, is simply a doctrine, clothed in a new garb, that was invented by John C. Calhoun, a brilliant intellect, but perverted by disappointed ambition into the narrowest of a State-rights advocate, and the inventor of the nullification doctrine of 1832—the principle upon which the people of the South in 1861 sought to establish a Confederate government. It is one of the old cries for the extension of slavery, resurrected in this arena and at this time to frighten the people of this country in the great emergency which confronts us.

In speaking as I do, Mr. Chairman, of Mr. Calhoun being the father of this doctrine, and that it was a dogma invented in support of slavery, I am following the beaten path that was prepared for all who came after by the most distinguished Senator Missouri ever had in the Senate of the United States, namely, Thomas H. Benton. I crave the indulgence of the House while I read to my Democratic friends what he said. I read from the second volume of Mr. Benton's work, page 712, entitled "Thirty Years' View:"

> The resolutions of 1847 went no further than to attempt to deny the power of Congress to prohibit slavery in a Territory, and that was enough while Congress alone was the power to be guarded against, but it became insufficient, and even a stumbling block, when New Mexico and California were acquired, and where no Congressional prohibition was necessary, because their soil was already free. Here the dogma of 1847 became an impediment to the territorial extension of slavery, for in denying power to legislate upon the subject the denial worked both ways, both against the admission and exclusion.
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> It was on seeing this consequence as resulting from the dogmas of 1847 that Mr. Benton congratulated the country upon the approaching cessation of the slavery agitation; that the Wilmot proviso being rejected as unnecessary, the question was at an end, as the friends of slavery extension could not ask Congress to pass a law to carry it into a Territory. The agitation seemed to be at an end and peace about to dawn upon the land. Delusive calculation! A new dogma was invented to fit the case, that of the transmigration of the Constitution (the slavery part of it) into the Territories, overriding and overruling all the anti-slavery laws which it found there, and planting the institution there under its own wing, and maintaining it beyond the power of eradication either by Congress or the people of the Territory. Before this dogma was proclaimed efforts were made to get the Constitution extended to these Territories by act of Congress. Failing in these attempts, the difficulty was leaped over by boldly assuming that the Constitution went of itself—that is to say, the slavery part of it.
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> In this exigency Mr. Calhoun came out with his new and supreme dogma of the transmigratory function of the Constitution in the ipso facto and the instantaneous transportation of itself in its slavery attributes into all acquired Territories. This dogma was broached by its author in his speech upon the Oregon Territorial bill. History can not class higher than as a vagary of a diseased imagination this imputed self-acting and self-extension of the Constitution. The Constitution does nothing of itself, not even in the States for which it was made. Every part of it requires a law to put it into operation. No part of it can reach a Territory unless imparted to it by act of Congress. Slavery, as a local institution, can only be established by local legislative authority. It can not transmigrate, can not carry along with it the law which protects it; and if it could, what law would it carry? The code of the State from which the emigrant went? Then there would be as many slavery codes in the Territory as States furnishing emigrants, and these codes varying more or less, and some of them in the essential nature of the property—the slave in many States being only a chattel interest, governed

by laws applicable to chattels; in others, as in Louisiana and Kentucky, a real estate interest, governed by the laws which apply to landed property. In a word, this dogma of the self-extension of the slavery part of the Constitution to a Territory is impractical and preposterous, and as novel as unfounded.

I desire to emphasize the fact that in the whole history of our legislative government no man before Mr. Calhoun, in either branch of Congress, had ever asserted that doctrine. You will mark this, that prior to this time we had acquired the Louisiana territory, Florida, New Mexico, and California; in fact, we had extended our territory from the circumscribed limits of the thirteen original States until we had reached from ocean to ocean; we had acquired an empire in territorial extent, and yet none of the leaders in either of the great political parties ever dreamed for a moment that the Constitution extended itself over it ex proprio vigore as is contended by our Democratic friends to-day. Fortunately for us in the elucidation of this question and the proper construction of the Constitution, Daniel Webster, the great expounder of that instrument, was living and a member of the Senate of the United States when Mr. Calhoun gave utterance to that doctrine which has been so strongly condemned by Mr. Benton.

This was more than twenty years after Mr. Webster had presented his views to the Supreme Court of the United States in the case of Insurance Company *vs.* Canter (1 Peters). It was after his life had been enriched by his experience in the courts of his country, in the Senate, and as Secretary of State. Mr. Webster refuted Mr. Calhoun's position in language to which I desire to call the attention of my fellow-members. His exposition is so lucid and so profound that, in my judgment, it does not leave anything to be said by others.

Let me say that in this general sense there is no such thing as extending the Constitution. The Constitution is extended over the United States and over nothing else. It can not be extended over anything except over the old States and the new States that shall come hereafter, when they do come in. There is a want of accuracy of ideas in this respect that is quite remarkable among eminent gentlemen, and especially professional and judicial gentlemen. It seems to be taken for granted that the right of trial by jury, the habeas corpus, and every principle designed to protect personal liberty is extended by force of the Constitution itself over every new Territory. That proposition can not be maintained at all. How do you arrive at it by any reasoning or deduction? It can only be arrived at by the loosest of all possible construction. It is said that this must be so, else the right of habeas corpus would be lost. Undoubtedly these rights must be conferred by law before they can be enjoyed in a Territory.

Sir, if the hopes of some gentlemen were realized, and Cuba were to become a possession of the United States by cession, does anybody suppose that the habeas corpus and the trial by jury would be established in it by the mere act of cession? Why more than election laws and the political franchises or popular franchise? Sir, the whole authority of Congress on this subject is embraced in that very short provision that Congress shall have power to make all needful rules and regulations respecting the territories of the United States. The word is territories, for it is quite evident that the compromises of the Constitution looked to no new acquisitions to form new territories. But as they have been acquired from time to time, new territories have been regarded as coming under that general provision for making rules for territories. We have never had a territory governed as the United States is governed. The legislature and the judiciary of Territories have always been established by a law of Congress. I do not say that while we sit here to make laws for these territories we are not bound by every one of those great principles which are intended as securities for public liberty.

But they do not exist in Territories till introduced by the authority of Congress. These principles do not proprio vigore apply to one of the Territories of the United States, because that territory, while a territory, does not become a part and is no part of the United States. * * * One idea further upon this branch of the subject—the Constitution of the United States extending over the Territories and no other law existing there. Why, I beg to know how any government could proceed without any other authority existing there than such as is created by the Constitution of the United

States? Does the Constitution of the United States settle titles to land? Does it regulate the rights of property? Does it fix the relations of parent and child, guardian and ward? The Constitution of the United States establishes what the gentleman calls a confederation for certain great purposes, leaving all the great mass of laws which is to govern society to derive their existence from State enactments. That is the just view of the state of things under the Constitution. And a State or Territory that has no law but such as it derives from the Constitution of the United States must be entirely without any State or Territorial government. * * * How did we govern Louisiana before it was a State? Did the writ of habeas corpus exist in Louisiana during its territorial existence? Or the right to trial by jury? * * *

Well, I suppose the revenue laws are made in pursuance of its provisions; but, according to the gentleman's reasoning, the Constitution extends over the Territories as the supreme law, and no legislation on that subject is necessary. This would be tantamount to saying that the moment territory is attached to the United States all the laws of the United States as well as the Constitution of the United States become the governing will of men's conduct and the rights of property, because they are declared to be the law of the land, the laws of Congress being the supreme law as well as the Constitution of the United States. Sir, this is a course of reasoning that can not be maintained. The Crown of England often makes conquests of territory. Whoever heard it contended that the Constitution of England, or the supreme power of Parliament, because it is the law of the land, extended over the territory thus acquired until made to do so by a special act of Parliament? The whole history of colonial conquest shows entirely the reverse. Until provision is made by act of Parliament for a civil government the territory is held as a military acquisition. It is subject to the control of Parliament, and Parliament may make all laws that they may deem proper and necessary to be made for its government; but until such provision is made the territory is not under the dominion of English law. And it is exactly upon the same principle that territories coming to belong to the United States by acquisition or cession, as we have no jus coloniae, remain to be made subject to the operation of our supreme law by an enactment of Congress.

I have referred to the manner in which this doctrine was first suggested in this country, and I have not only shown to you the decisions of the Supreme Court of the United States bearing on this subject, but the views of the most distinguished expounder of our Constitution since the formation of the Federal Republic. Let me now call your attention to an able article on this subject from a historical standpoint written by historian McMaster. It is in the December number of the Forum, 1898. The article is well worthy the perusal of every student of American institutions and especially of every man desiring to obtain light on the subject now under consideration. It is written with all the facility of expression and profound research of that able historian. The conclusion he reaches is as follows:

A review of the history of suffrage in the Territories thus makes it clear that foreign soil acquired by Congress is the property of and not part of the United States; that the Territories formed from it are without, and not under, the Constitution, and that in providing them with governments Congress is at liberty to establish just such kind as it pleases with little or no regard for the principles of self-government; that in the past it has set up whatever sort was, in its opinion, best suited to meet the needs of the people, never stopping to ask how far the government so created derived its just powers from the consent of the governed, and that it is under no obligation to grant even a restricted suffrage to the inhabitants of any new soil we may acquire unless they are fit to use it properly.

If my contention be true, Mr. Chairman, that these islands are only the property of the United States and that the inhabitants only acquire such rights as we may give them by legislation, it follows that we can have separate customs and internal-revenue laws for the islands, and navigation laws applicable to that country and distinct from our own, and, in fact, any legislation that will be for the well-being of the people of those islands and of the people of the States. I dissent in toto from the doctrine contended for by some, that our tariff laws and internal-revenue laws must be the same in these islands as they are in the United States. In

addition to what I have already said on this subject, I desire to call the attention of the House to the case of Fleming *vs.* Page. (9 Howard, page 603.) Mr. Webster, who was of counsel in that case, in his argument said:

That there was a difference between the Territories and the other parts of the United States. Judges were there appointed for terms of years, which the Constitution forbade as to other parts of the country. Hence the part of the Constitution which directs that duties must be equal in all the ports of the United States does not apply to Territories.

Mr. Chief Justice Taney, in delivering the opinion for the court in that case, said:

This construction of the revenue laws has been uniformly given by the administrative department of the Government in every case that has come before it. And it has, indeed, been given in cases where there appears to have been stronger ground for regarding the place of shipment as a domestic port. For after Florida had been ceded to the United States and the forces of the United States had taken possession of Pensacola, it was decided by the Treasury Department that goods imported from Pensacola before an act of Congress was passed erecting it into a collection district and authorizing the appointment of a collector were liable to duty. That is, although Florida had, by cession, actually become a part of the United States, and was in our possession, yet under our revenue laws its ports must be regarded as foreign until they were established as domestic by act of Congress: and it appears that this decision was sanctioned by the Attorney-General of the United States, the law officer of the Government.

And although not so directly applicable to the case before us, yet the decisions of the Treasury Department in relation to Amelia Island and certain ports of Louisiana, after that province had been ceded to the United States, were both made upon the same grounds. And in the latter case, after a custom-house had been established by law at New Orleans, the collector at that place was instructed to regard as foreign ports Baton Rouge and other settlements still in the possession of Spain, whether on the Mississippi, Iberville, or the seacoast. The Department in no instance that we are aware of since the establishment of the Government has ever recognized a place in a newly acquired country as a domestic port from which the coasting trade might be carried on unless it had been previously made so by act of Congress.

The principle thus adopted and acted upon by the executive department of the Government has been sanctioned by the decisions in this court and the circuit courts whenever the question came before them. We do not propose to comment upon the different cases cited in the argument. It is sufficient to say that there is no discrepancy between them. And all of them, so far as they apply, maintain that under our revenue laws every port is regarded as a foreign one unless the custom-house from which the vessel clears is within a collection district established by act of Congress and the officers granting the clearance exercise their functions under the authority and control of the laws of the United States.

The enemies of national expansion have created in their imagination a bogy man and with him are trying to frighten the laboring people of this country; they are assuming that the people of that distant and tropical climate will come to the cold regions of the North and drive out our laboring men with their cheap labor. A more groundless argument was never urged. It is almost fantastical when you consider it in its true light. There is not a Malay in this country to-day, and there will not be one an hundred years from now. Why? Because the climatic conditions are such that they will prefer to stay in their own country; they will secure a larger liberty under the administration we shall give them in their own islands than they have heretofore enjoyed, and will remain there instead of coming here to compete with American labor.

But, as I have stated, the treaty of peace under which we have acquired this territory leaves it with the Congress of the United States to provide against any of the contingencies that have been conjured up by the ingenuity of these Democratic speakers who

are seeking to throw a stumbling-block in the way of this Administration in the discharge of the responsibilities which it has had thrust upon it by the fortunes of war. We can provide a system of government that will be adapted not only to the conditions of the islands from a climatic standpoint, but adapted to the state of political development of the people. What is important for us now is to demonstrate to them and to the world that America is united in her efforts to maintain peace and order in this territory. They in time will come to understand, as will all the world, that the form of government that we establish in these islands will start the people on an era of progress which has been unknown in their history.

While this is being done it will be necessary for us, in the interest of humanity and the people themselves, to have a stable form of government there and an army sufficiently large to police the islands and drive out freebooters, whether under the leadership of Aguinaldo or any other military or political adventurer. I have grown tired, Mr. Chairman, in listening to the arguments of gentlemen on the other side of the Chamber when they talk about "imperialism," and that an increased Regular Army will stifle the liberty of our countrymen. But when I reflect on the history of my country and note the arguments of ill omen that have ever been addressed to the people when new territory has been acquired, I content myself in the belief that the notes of alarm sounded by the Democrats will fall on deaf ears, as they did on the deaf ears of the fathers of our country, who believed that the acquiring of new and additional territory, instead of weakening, would strengthen the Republic and aid it in its manifest destiny in the elevation of mankind. While these arguments of the pessimists have ever found ready expression with a certain class of public men from the time of the acquisition of the Louisiana territory to that of the Hawaiian Islands, it certainly sounds strange coming from the lips of Democrats.

The patron saint of the Democratic party is Thomas Jefferson, and yet, Mr. Chairman, he was the greatest territorial "expansionist" this Government has ever known. When the opportunity was presented to him by the first Bonaparte to acquire that magnificent empire known as the Louisiana Province, out of which have been carved some of the richest and most populous of our States, did he hesitate? Not a moment! He believed then, as we know now, that the acquisition of that territory would raise the American Republic from the condition of a fourth-rate power to that of a first-class power among the great nations of the world. In our youth and weakness, with an impoverished Treasury, with small means for raising revenue, he authorized his commissioners to pay the French Government the sum of $15,000,000 for this territory. Is there a man within the sound of my voice to-day who believes that Mr. Jefferson made a mistake in the acquisition of that territory? Is there a man to-day, in the light of our history, who believes that the principles of free government were weakened by the acquisition of this new territory, containing as it did a population who were strangers to our constitutional Government and enemies to our free institutions? And yet, Mr. Chairman, some of the best minds of that day believed as fully as our Democratic friends profess to believe to-day that the acquisition of the Louisiana Territory would work the destruction of the American Republic.

Let me read to you a few sentences from Fisher Ames, one of the most distinguished Federalists of New England, one of the most accomplished men of his time, and one of the most brilliant and fascinating orators that ever addressed an audience:

Now, by adding an unmeasured area beyond that [the Mississippi] river we rush like a comet into infinite space. In our wild career, we may jostle some other world out of its orbit, but we shall, in every event, quench the light of our own. * * * Having bought an empire, who is to be emperor? The sovereign people, and what people? All, or only the people of the dominant States, and the dominant demagogues in those States, who call themselves the people? As in old Rome, Marius, or Sylla, or Cæsar, Pompey, Antony, or Lepidus will vote themselves provinces and triumphs. * * * But surely it exceeds all my credulity and candor on that head to suppose even they can contemplate a republican form as practicable, honest, or free, if applied when so manifestly inapplicable to the Government of one-third of God's earth.

Mr. Josiah Quincy, of New England, at one time president of Harvard University, and at another time one of the most distinguished men of this body, had this to say in opposition to the acquisition of the Louisiana Territory:

Under the sanction of this rule of conduct, I am compelled to declare it as my deliberate opinion that if this bill passes the bonds of this Union are virtually dissolved; that the States which compose it are free from their moral obligations, and that, as it will be the right of all, so it will be the duty of some, to prepare definitely for a separation, amicably if they can, violently if they must. * * * Do you suppose the people of the Northern and Atlantic States will or ought to look upon with patience and see Representatives and Senators from the Red River and Missouri pouring themselves upon this and the other floor, managing the concerns of a seaboard 1,500 miles at least from their residence, and having a preponderancy in councils into which constitutionally they could never have been admitted? I have no hesitation on this point. They neither will see it nor ought to see it with content. * * * Grasp not too eagerly at your purpose. In your speed after uncontrolled sway, trample not down this Constitution. * * * I have no concealment of my opinion. The bill, if it passes, is a deathblow to the Constitution. It may afterwards linger, but, lingering, its fate will at no very distant period be consummated.

This language of Fisher Ames and Josiah Quincy is as doleful in character as the prophecies which have been expressed by gentlemen on the other side of this Chamber in relation to the Philippine Islands. Mr. Chairman, it is my deliberate opinion that their statements and their prophecies are as ill-timed and their forebodings as little likely to prove true as were those of the opponents of the acquisition of the territory of Louisiana at the period of which I have just spoken. I believe that the United States Government is entering upon a new era of greatness, of expansion, and of glory. The Constitution possesses the elasticity of the fabled tent of the Arab. It was framed and adopted for the government of the thirteen original States, yet it has expanded over a continent. The 75,000,000 people who now live within its borders have the same liberty, the same sacred rights, and the treasured inheritance of free government that were guaranteed by the framers of the Constitution to the people of the thirteen original States.

Under the interpretation that has been given to it by the great legislators of our country and the Supreme Court, the Constitution will enable us to acquire this territory in the Orient, and if we are as wise as those who have preceded us, will enable us to give those people rights of free citizens without infringing in the least upon the privileges and immunities of our own people. I maintain, as I have already stated, that a government can be formed in the Philippine Islands that will be self-supporting through the customs laws that we shall give them and the internal-revenue laws

that will follow; and instead of having a standing army of American soldiers there, we can follow the wise example of Diaz in Mexico, who has taken the brigands from the mountains and made them soldier citizens, and has thereby secured the best police officers in the world. We can take native inhabitants for whatever soldiers may be needed and officer them with men trained in our Regular Army and thus insure peace and tranquillity in the islands. By this method, Mr. Chairman, the United States Government will place no new burdens upon our people. Our acquisition of those islands and our government of them will open a wider avenue for our trade. The surplus products of our farms and factories will find a market there and in the far east which would otherwise remain closed to us were the reactionary doctrine advocated by Democratic members of this House and the Senate to be adopted and followed.

Mr. Chairman, the President of the United States has stood forth through all of the great crises of the war and the problems that have followed it as one of the greatest statesmen of his time. He has shown qualities that have not only aroused the admiration of his political enemies, but that have even surprised his personal and political friends. From the first notes of war to this blessed hour every step that he has taken has been so well timed as not only to represent the prevailing sentiment of the Republic, but has been so wisely taken that history will vindicate his every action. [Applause on the Republican side.] Men may stand on this floor and denounce him, but when the grave of oblivion shall have closed over them his name will be recorded in the brightest pages in the history of our Republic. It falls to the lot of those who hold exalted positions to have detractors. He is only experiencing what was meted out to the sainted Lincoln during his Administration from the venomous lips of the political enemies of his party and policy.

History almost repeats itself in many of the expressions that have been indulged in by gentlemen on this floor in their discussion of the questions now under consideration. For the benefit of those men who to-day are denouncing President McKinley and insisting that his attitude is indefensible, I wish to call their attention to some of the expressions that their Democratic predecessors used during the dark and stormy period of the civil war. Senator Polk, on the 10th of July, 1861, in the Senate of the United States, said, in discussing war measures:

> That war has been brought on by the President of the United States of his own motion and of his own wrong; and under what circumstances?

Mr. Vallandigham, on the same day, in the House, said:

> I will not now venture to assert what may yet some day be made to appear, that the subsequent acts of the Administration and its enormous and persistent infractions of the Constitution, its high-handed usurpations of power, formed any part of a deliberate conspiracy to overthrow the present form of Federal republican government and to establish a strong centralized government in its stead.

Senator Breckinridge, in the Senate, said:

> Then, Mr. President, the Executive of the United States has assumed legislative powers. The Executive of the United States has assumed judicial powers. The executive power belongs to him by the Constitution. He has, therefore, concentrated in his own hands executive, legislative, and judicial powers, which in every age of the world has been the very definition of despotism, and exercises them to-day.

Mr. Burnett, in the House, on July 16, 1861, said:

> I say the Republican party will be held responsible for the unhappy condition of our country to-day. I say, in my place here now, that the only dis-

unionists per se this country has ever been cursed with are the leaders of the Republican party.

Again, on July 24, 1861, he said:

You are writing, by indorsing and ratifying the illegal acts of this Administration, one of the saddest, blackest pages in the history of this country.

Mr. Voorhees, of Indiana, on February 20, 1862, said:

A stupendous fraud has been practiced on the nation, and the Army of the United States has been obtained by fraud.

On May 21, 1862, Mr. Voorhees said:

Is this the age of republican simplicity, or are we transported to the days of fraudulent usurpers, to the unhallowed scenes of the Roman Cæsars?

Senator David, on February 16, 1864, said:

But in our free and limited government of a written constitution, President Lincoln and his party, in utter disregard of its limitations and restrictions, are making for him the same boundless and despotic powers * * * which the Plantagenets and Tudors and first Stuarts contended for in England.

I read these extracts from speeches made by Democrats of a former generation to show to the Republicans of this House that in pursuing the policy that has been outlined by our party and in sustaining the Administration we are subjecting ourselves to no fiercer criticisms than those hurled against the first President the Republican party gave to this country. We have nothing to fear from these base and groundless charges. Our duty, in my judgment, is clear, and that is, to fearlessly and conscientiously provide for the great emergency that has been placed upon us by this war with Spain. [Applause on the Republican side.] Let us discharge our duty with a firmness and intrepidity that characterized the action of our fathers when the dark cloud of civil war overhung our national horizon, and the people of to-day will as surely approve our conduct as did the people of a generation ago approve the conduct of President Lincoln and his advisers when they were exercising every power of the Constitution for the maintenance of the Union and the integrity of our Federal Republic. [Prolonged applause.]

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